

REMARKS/ARGUMENTS

Claims 1-28 are pending in the present application. The Examiner has allowed claims 24-28. The Examiner has rejected claims 1-5, 7, 8, and 11-21. The Examiner has objected to claims 6, 9, 10, 22, and 23. Applicant has amended claim 17. Applicant respectfully requests reconsideration of pending claims 1-23.

The Examiner has rejected claim 18 under 35 U.S.C. § 102(e) as being unpatentable over Sakamoto (U.S. Patent No. 6,075,767). Applicant respectfully disagrees.

While the Examiner has rejected claim 18 under 35 U.S.C. § 102(e), Applicant notes that, in the Examiner's "Response to Arguments," as discussed below in reference to claims 1 and 15, the Examiner has, while specifically referring to claim 18, stated, "...Sakamoto does not explicitly disclose a router..." Moreover, the Examiner has stated, "Thus, one of ordinary skill in the art at the time the invention was made to modify the routing function in the system disclosed by Sakamoto for advantages cited above with respect to claim 1." The Examiner neither states why it would be necessary to "...modify the routing function in the system disclosed by Sakamoto..." to support a rejection under 35 U.S.C. § 102(e) nor explains why modifying "...the routing function in the system disclosed by Sakamoto for advantages cited above with respect to claim 1" would be pertinent to claim 18. Thus, Applicant submits the Examiner has failed to justify a rejection of claim 18 under 35 U.S.C. § 102(e). Therefore, Applicant submits claim 18 is in condition for allowance.

The Examiner has rejected claims 1-5, 7, 8, 11-17, and 20-21 under 35 U.S.C. § 103(a) as being unpatentable over Sakamoto (U.S. Patent No. 6,075,767). Applicant respectfully disagrees.

Regarding claims 1 and 15, in the Examiner's "Response to Arguments," the Examiner acknowledges that "Sakamoto does not explicitly disclose a router." The Examiner cites col. 14, line 66, through col. 15, line 4, of Sakamoto as stating, "While the present invention has been described with reference to the particular illustrative embodiments, it is not restricted by those embodiments but only by the appended claims. It is to be appreciated that those skilled in the art can change or modify the embodiments without departing from the scope and spirit of the present invention." The Examiner then concludes, "Thus, one of ordinary skill in the art at the time the invention was made to modify the routing function in the system disclosed by Sakamoto for advantages above with respect to claim 1."

However, MPEP § 2141 states, in part, “Office policy is to follow *Graham v. John Deere Co.* in the consideration and determination of obviousness under 35 U.S.C. 103. As quoted above, the four factual inquiries enunciated therein as a background for determining obviousness are as follows:

- (A) Determining the scope and contents of the prior art;
- (B) Ascertaining the differences between the prior art and the claims in issue;
- (C) Resolving the level of ordinary skill in the pertinent art; and
- (D) Evaluating evidence of secondary considerations.”

While the cited portion of Sakamoto states that “...those skilled in the art can change or modify the embodiments...,” Applicant can find nothing in the cited portion of Sakamoto nor the Examiner’s conclusion drawn therefrom that would appear to constitute “...(C) Resolving the level of ordinary skill in the pertinent art....” Thus, Applicant submits the Examiner’s purported “...consideration and determination of obviousness under 35 U.S.C. 103...” does not appear to conform to “Office policy” or the requirements of the underlying case law.

Moreover, the cited portion of Sakamoto states, in part, “While the present invention has been described with reference to the particular illustrative embodiments, it is not restricted by those embodiments but only by the appended claims...,” the Examiner fails to show how such restrictions admittedly imposed by “...the appended claims...” of Sakamoto would purportedly overcome the admitted fact that “...Sakamoto does not explicitly disclose a router.” Thus, Applicant submits the teachings of Sakamoto fail to anticipate or render obvious the claimed invention as set forth in claims 1 and 15. Therefore, Applicant submits claims 1 and 15 are in condition for allowance.

Regarding claims 2, 3, 16, and 19, Applicant notes that, in the Examiner’s “Response to Arguments,” the Examiner states, “The system will have no synchronization problem if the same buffers are added to the both line cards, because the propagation delays in both line cards are the same.” However, the Examiner fails to cite any evidence to support such assertion, especially how “...the same buffers...” can be “...added to both line cards...” and how “...the propagation delays in both line cards are the same.” Applicant reiterates Applicant’s previous arguments that Sakamoto teaches away from the present invention as set forth in claims 2, 3, 16, and 19. Thus, Applicant submits claims 2, 3, 16, and 19 are in condition for allowance.

Regarding claims 4 and 17, Applicant has amended claim 17 to depend from claim 15. Applicant submits the purpose of the amendment is merely to correct a typographical error. Thus,

Applicant submits the scope of claim 17 remains unchanged from the intended scope of the originally filed claim 17. Applicant has presented reasons for the allowability of claim 1, from which claim 4 depends. Applicant has presented reasons for the allowability of claim 15, from which amended claim 17 depends. Applicant submits claims 4 and 17 are also in condition for allowance.

Regarding claims 5 and 21, the Examiner acknowledges, "Sakamoto does not disclose when idle states are present in the active line card, the arbiter passes inactive line card data inactive line card [sic]." The Examiner asserts, "However, the method of activating the redundancy line card when idle states (or idle cells) are detected in the working line card is well known in the art." The Examiner concludes, "It would have been obvious to one of ordinary skill in the art at the time the invention was made to apply idle states into Sakamoto's system in order to improve quality of service because avoiding data lost in the system [sic]." However, Applicant notes the Examiner has failed to present any evidence to support the Examiner's contention as to what allegedly "...is well known in the art." Moreover, the Examiner fails to present any reason why what the Examiner appears to consider "...is well known in the art" would bear any relevance to what might be alleged *was* well known in the art at the time the invention was made. Furthermore, Applicant submits it does not appear that the Examiner has adhered to "...Office policy..." of following "...*Graham v. John Deere Co.* in the consideration and determination of obviousness under 35 U.S.C. 103...", as set forth in MPEP § 2141. As Applicant submits is evidenced by the distinction between what allegedly *is* well known in the art and what might be alleged *was* well known in the art, Applicant submits "...the level of ordinary skill in the pertinent art..." has not been accurately resolved in accordance with MPEP § 2141 and the underlying case law. Thus, Applicant submits claims 5 and 21 are in condition for allowance.

Regarding claims 7 and 20, the Examiner states, "...the method of using filter for passing only selected data types is well known in the art and applied in conventional communication systems." However, the Examiner does not cite evidence to support such assertion. Thus, Applicant submits claims 7 and 20 are allowable in view of the Sakamoto reference.

Regarding claim 8, Applicant reiterates the reasons presented above with respect to claim 7 and submits that the limitation "...filters are configured based on a register that determines the selected data types" cannot be met in absence of such filters. Thus, Applicant submits claim 8 is in condition for allowance.

Regarding claim 11, Applicant has presented reasons for the allowability of claim 1, from which claim 11 depends. Applicant submits that claim 11 is also in condition for allowance.

Regarding claims 12-14, Applicant has presented reasons for the allowability of claim 1, from which claims 12-14 depend. Applicant submits that claims 12-14 are also in condition for allowance.

The Examiner has objected to claims 6, 9, 10, 22, and 23, but states they would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. The Examiner has allowed claims 24-28.

In conclusion, Applicant has overcome all of the Office's rejections, and early notice of allowance to this effect is earnestly solicited. If, for any reason, the Office is unable to allow the Application on the next Office Action, and believes a telephone interview would be helpful, the Examiner is respectfully requested to contact the undersigned attorney.

Respectfully submitted,

Date

10/19/2005



Ross D. Snyder, Reg. No. 37,730
Attorney for Applicant(s)
Ross D. Snyder & Associates, Inc.
PO Box 164075
Austin, Texas 78716-4075
(512) 347-9223 (phone)
(512) 347-9224 (fax)